No. 12,599

IN THE

United States Court of Appeals

For the Ninth Circuit

JAMES MARTIN MACINNIS,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

Appeal from the United States District Court, Northern District of California, Southern Division.

REPLY BRIEF FOR APPELLANT.

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Table of Authorities Cited

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The most noteworthy fact about the brief for Appellee is that, except for unsubstantiated general denials and castigating denunciations, *nowhere* therein is *any* attempt made to refute, or to answer, or to explain away, or to lessen the logical impact of, *any* of the factual statements, or *any* of the factual analyses, or *any* of the factual deductions contained in the opening brief for Appellant under Appellant's First Point, pages 10 to 55 inclusive.

This is so notwithstanding the fact that three times in that argument Appellee was explicitly challenged to suggest explanations, other than the ones made by Appellant, which were in the least bit plausible (OBFA 10-20, 22 and 48) and notwithstanding the

further and more important fact that the whole of the argument under Appellant's First Point is of such a character as not only to *challenge* refutation but to *defy* refutation.

The fact that no attempt has been made by Appellee to refute such argument, or even to find flaws in it, indicates, and we think quite conclusively, that, despite its unsubstantiated general denials and castigating denunciations, Appellee has found that argument to be unassailably correct, not only as a whole but in each of its parts.

While not attempting to refute or answer that argument, Appellee has taken, or pretended to take, certain positions with respect to it. We now proceed to examine such positions, to the extent that the page limitation of Rule 20, Section 2, subdivision (f) will permit.

On page 15 of its brief Appellee says:

> It is not necessary on this appeal to defend the presiding judge's conduct in the Bridges trial against the attacks of appellant MacInnis. While it is strenuously asserted that Judge Harris' conduct toward the defendants on trial and toward their counsel was eminently tolerant, fair and impartial, that conduct is a matter for review by this Court upon an appeal on the merits of the *Bridges* case. The propriety of appellant's behavior, not that of the Court, is now the issue.

The *strenuousness* of Appellee's *assertion* with respect to the propriety of the conduct of Judge Harris is one *of words only:* words without stated reason in substantiation thereof. More accurately, that *strenuousness* finds its *entire existence and vitality* in the *use* of the *one* word *"strenuously"*. The strength is verbal, not logical or even rational.

By what rationale could Appellee reach the conclusion and assert that the conduct of Judge Harris, in asking a defense witness a question of a character which Judge Harris, during the same trial, had repeatedly held to be improper when asked of prosecution witnesses (compare record 80 and 81 with the record 33 and OBFA 32 to 37) was "eminently * * * impartial"? By what rationale could Appellee reach the conclusion and assert that the conduct of Judge Harris in twice falsely stating in the presence of the jury that Appellant had invited Judge Harris to ask the question, the second time immediately following Appellant's truthful disavowal (see record 33 and OBFA 43 to 49) thereby, in effect, *falsely* accusing Appellant of *lying* and of trying to deceive the jury, was "eminently * * * fair"?

Either Appellee made these *strenuous assertions* without giving real consideration to the conduct of Judge Harris, or in crass stupidity, or in cynical disregard of the truth and this Court's perspicacity.

It is true that the propriety of the conduct of Judge Harris in the respects set forth in the opening brief for Appellant "is a matter for review by this Court on an appeal on the merits in the *Bridges* case." But this is so *not* because the propriety of that conduct will be *the major issue, or even one of the major issues,* on that appeal, i.e. the *ultimate point, or one of the ultimate points,* for decision on that appeal. It is so because the propriety of that conduct will be a *minor issue* on that appeal, that is, because it will have *material relation* to *one* of the *major issues* on that appeal, namely: to the issue of whether the *judgments* in that case have the *legal infamity* of *prejudicial error* committed during the course of the trial which produced *those judgments.*

But it is not true, as intimated by Appellee, that because the propriety of such conduct will be "a matter for review by this Court on an appeal on the merits in the *Bridges* case" that it is not a matter for review *on this appeal.* On the contrary, the propriety of such conduct of Judge Harris is a matter for review on this appeal for *identically* the same reason that it will be a matter for review in the *Bridges* case, namely: because in this case, as in the *Bridges* case, it is a *minor issue,* that is: an issue having *material relation* to *one* of the *major issues.* In this case it has *material relation* to the *major issue* of whether the remarks of appellant *adjudged to be contemptuous were in fact contemptuous;* that is: whether the circumstances *existing* at the time they were uttered—including (1) the matters to which they were addressed, (2) Appellant's understanding with respect to those matters and (3) Appellant's purpose in making those remarks—did or did not *justify or excuse* Appellant in making those remarks.

In this respect, the statement of Mr. Justice Holmes in his dissenting opinion in *Toledo Newspaper Co. v. U. S.,* 247 U.S. 402, 423 (which opinion was later adopted by reference in the majority opinion in *Nye v. U. S.,* 313 U.S. 33, 52) that:

> "Misbehavior means something more than adverse comment or disrespect."

should be borne in mind, as should the Supreme Court's statement in *Gompers v. Bucks Stove & R. Co.,* 122 U.S. 418, 444, that:

> "* * * in proceedings for criminal contempt the defendant is presumed to be innocent," and "he must be proved guilty beyond a reasonable doubt, * * *."

See also *Boyd v. U. S.,* 116 U.S. 616.

The matters to which the remarks of Appellant were addressed included the two statements made by Judge Harris less that a minute previously, namely: "Mr. MacInnis invited it" and "Mr. MacInnis invited me to ask the question." They also included the statement made by Appellant between those two statements made by Judge Harris, namely: "I never heard of such a question."

As we hereinbefore pointed out, Judge Harris' statement "Mr. MacInnis invited me to ask the question" following, as it did, Appellant's statement that he had "never heard of such a question", in effect, *accused* Appellant of having *lied* when he made that statement. And, as that second statement of Judge Harris was made in the presence of the jury, it had the effect not only of accusing Appellant of lying *but also of telling the jury that Appellant was trying to deceive them.*

Had the two statements of Judge Harris been true, there could be no question but that the subsequent statements of Appellant, viz., "I think you should cite yourself for misconduct. I never heard anything like that. You should be ashamed of yourself", *in so far as they had reference to those two statements of Judge Harris,* would have constituted contempt.

But, as we have shown, those two statements of Judge Harris were absolutely false (OBFA 46, 47) and Judge Harris, at least after Appellant's intervening statement of disavowal, *must* have *known and realized* that they were false (OBFA 48, 49).

These things being so, Judge Harris' statement "Mr. MacInnis invited me to ask the question",

unquestionably constituted misconduct.* And not only misconduct but wilful misconduct of the most atrocious sort. Misconduct of the most atrocious sort in that, by telling the jury that Appellant was lying (when Appellant was in fact telling the truth), it had an irresistible tendency completely to discredit Appellant in the minds of the jury and thereby wrongfully and unconstitutionally deprive the defendants of Appellant's effective services as counsel and to make of Appellant a positive liability to those defendants. (See *Glasser v. U. S.*, 315 U.S. 60.)

Moreover, as "the Court" during the trial of a criminal case consists of "the judge" and "the jury", the wilfully false statements of Judge Harris in the presence of the jury were calculated to deceive that part of "the Court" which is "the jury" and thus to deceive "the Court" itself. This being so, such wilfully false statements constituted not only misconduct but misconduct amounting to criminal contempt of Court. (See *U. S. v. Ford,* 9 Fed. (2d) 990, cited by Appellee on pages 13 and 16 of its brief.)

Appellee contends that even if "the conduct *and rulings"* of Judge Harris "were erroneous Appellant had an adequate remedy of appeal" in the *Bridges* case "and was not thereby licensed belligerently to assail the authority and dignity of the Court and bring it into public disrepute". (BFA 11.)

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*See this Court's decision in *Williams v. U.S.*, 93 Fed. (2d) 685, and the cases therein cited and quoted from, including:

Adler v. U. S., 182 F. 464, 472, 473;
Frantz v. U. S., 62 F. (2d) 737, 739;
Hunter v. U. S., 62 F. (2d) 217, 220, and
Quercia v. U. S., 289 U.S. 466, 470, 472.

These cases also reveal beyond question that Judge Harris was guilty of misconduct in his examination of Father Meineche and particularly in his asking Father Meineche the question "Have you been recently subjected to medical treatment, Father?"

First let it be observed that no *rulings* of Judge Harris were assailed by Appellant. The asking of the question by Judge Harris did not constitute a *ruling*. The statement "Mr. MacInnis invited it" did not constitute a *ruling*. Nor did the statement "Mr. MacInnis invited me to ask the question" constitute a *ruling*. Only *acts of conduct* of Judge Harris, as distinguished from the *rulings* of Judge Harris, were *in any wise* assailed by Appellant. For this reason the cases cited by Appellee on pages 16 to 19 of its brief are not in point for they all involved the disregard of rulings or the making of demonstrations against rulings.

It is true that it is the duty of counsel, during the course of a trial, to abide by the rulings of the Court and not to disregard or defy or protest or assail those rulings, but to wait to have them corrected on appeal, if erroneous.

But this rule *does not apply* to *acts of misconduct* by the judge of the Court. The right to protest, *and to openly charge that they are acts of misconduct, using that very word,* exists. Indeed, the duty to *assign such acts as misconduct* (in order to accord the Court an opportunity to undo the harm by proper admonitions), as a predicate for a claim of error on appeal, exists, although, in some instances, where to make such an assignment would increase rather than diminish the harm and prejudice, Appellate Courts have held that the lack of such an assignment of misconduct would not *foreclose* the raising of the point of misconduct on appeal. (See this Court's decision in *Williams v. U. S.*, supra, and cases therein cited.)

Had Appellant said to Judge Harris: "I assign your statements 'Mr. MacInnis invited it', and 'Mr.

MacInnis invited me to ask the question' as misconduct in this: that those statements are false in fact and that they, in effect, accuse me of having lied, and with having attempted to deceive the jury, when I truthfully stated that I had not heard of such a question; and I request that you inform the jury that those two statements of yours are untrue and that my statement is true" * * * had Appellant made such a statement to Judge Harris *he would have been entirely within his rights,* although such statement, being more pointed, and openly accusing Judge Harris of a twice stated falsehood, would have been much more offensive than the statements which Appellant did make, and would have brought Judge Harris much more certainly and much more quickly into "public disrepute".

Appellant's statement "I think you should cite yourself for misconduct", in effect, assigned the two statements of Judge Harris to be misconduct and requested that he undo the wrong by retracting those statement, in that an assignment of misconduct *by* Judge Harris would have been an admission of misconduct. Appellant's statement "I never heard of such a thing", being a repetition, in slightly different words, of his previous statement, "I never heard of such a question", clearly revealed that Appellant was making reference to the two statements of Judge Harris that Appellant had invited Judge Harris to ask the question. (The statement "I never heard of such a thing" is meaningless, without point or purpose, a *non sequitur,* unless such was its direction.) Appellant's statement "You should be ashamed of yourself" merely voiced Appellant's *righteous indignation* of having been falsely accused by Judge Harris, in the presence of the jury, of having lied

when he said that he had never heard of such a question.

Certainly Appellant, under these circumstances, had the right to make *some* form of *personal protest,* and, in that personal protest, to voice a measure of indignation. Appellant had been *personally* assailed by Judge Harris. His *personal* veracity, his *personal* integrity, had been *falsely impugned* by Judge Harris. Yet Appellee takes the position that all of this could have been corrected on an appeal in the *Bridges* case and that it was Appellant's duty, as an officer of the Court, to bow to, to acquiesce in, to accede to, this twice-stated falsehood of Judge Harris and to *ignore,* and, *by ignoring to appear to accept as deserved,* the *personal assault* which Judge Harris had made *upon Appellant's veracity and integrity.*

The law recognizes the right of self defense even in homicide cases. Does it make an exception where the one making the assault is a judge, and the one assaulted is an attorney in the trial of a case before that judge, and the assault is not only without provocation but is wilfully wrong and, unless resisted, inescapably injurious?

According to Appellee, the law does make such an exception. According to Appellee the more unprovoked such an assault is and the more wilfully wrong it happens to be, and the more damaging its result if unopposed, the more the attorney is duty bound *not to defend himself* because of the greater probability that the making of a defense, thereby exposing the wrong doing of the judge, will bring the Court "into public disrepute". Indeed, Appellee goes so far as to contend (BFA 16) that it is an attorney's "*paramount* obligation" to shield the judge under such

circumstances. "Paramount" means "superior to all others". Thus, Appellee contends that an attorney's obligation to shield the judge from criticism is superior to his obligation to himself, to his clients, to the cause of justice and to the law. Either this is Appellee's contention or Appellee is ignorant of the meaning of the word paramount.

Appellee would have this Court weigh the remarks of Appellant divorced from, indeed, *torn from,* their setting in the record. Appellee would have this Court consider those remarks without relation to the matters to which they were addressed and without regard to whether they were or were not in fact either justified or excused by what had preceded their utterance. Appellee would have this Court deny to Appellant the right to make a factual defense, *based upon the record,* although the judgment against him was issued without notice or hearing or any opportunity, prior to the issuance of that judgment, to make any showing or explanation or argument in defense or justification or excuse of his conduct.

But this is by no means the limit to which Appellee would have this Court go in order to sustain the judgment against Appellant. Appellee would not only have this Court consider the remarks of Appellant torn from their setting in the record but it would have this Court consider those remarks in the framework, and, as we shall show, the false and misleading framework, put around them by Judge Harris in the certificate which forms a part of the judgment.

On pages 12 and 13 of its brief Appellee makes this statement:

> "In appraising appellant's behavior as described in the Court's certificate, consideration should be given not only to the language used by appel-

lant but also to Judge Harris' description of appellant's contemptuous demeanor, i.e., that he 'jumped to his feet, participated in a critical remonstrance of the Court' and that he addressed himself to the Court 'in a belligerent manner in the presence of the jury'."

And later on page 13 Appellee says:

"The insolent language used by appellant MacInnis in addressing the presiding judge, *coupled with appellant's belligerent manner,* unquestionably implied a purpose to flout the authority and dignity of the Court and to intimidate it in its administration of the law." (Emphasis added.)

In the opening brief pages 11 to 32 and 37, 38, 43 to 49 we pointed out that the certificate of Judge Harris was misleading both in certain of its declarations and by reason of certain material omissions. Such misleading items in the certificate would seem to cast doubt on its accuracy in other respects as well. Moreover, the characterizations of Appellant's demeanor to which Appellee calls attention *serve as a fill in where those material omissions occur.* This circumstance, again, would seem to cast doubt on the accuracy of those characterizations.

Let us now examine the three characterizations of Appellant's demeanor made by Judge Harris, and see to what extent they hold up under inspection.

The first is:

"Following such question, Mr. MacInnis jumped to his feet, * * *"

The expression "jumped to his feet" is what is known as an *hyperbole,* that is "a poetic or rhetorical *overstatement;* an *exaggeration*". The *un*exaggerated meaning is that appellant rapidly arose from a sitting

to a standing position. That is a characteristic movement of an attorney seeking to interpose an objection to a question which calls for a "yes" or "no" answer which, to be effective, must be interposed before the question is answered. *The question to which Appellant wished to object called for such an answer.*

Moreover, the record discloses that Vincent Hallinan was first to arise and start speaking and that Appellant did not address the Court until *after* (1) Mr. Hallinan had said seventy-seven words divided into five sentences *and* (2) Judge Harris had said fourteen words divided into two sentences and (3) Judge Harris said "Mr. MacInnis invited it." Consequently, the record makes indisputedly clear that there was no *precipitate* action by Appellant, such as is implied by Judge Harris in the declaration "Following such question, Mr. MacInnis jumped to his feet." In other words, such characterization of Appellant's demeanor is not only an exaggeration *but is a gross exaggeration.*

If Judge Harris would grossly exaggerate in this formal instance, *where any degree of exaggeration is wholly out of place and, literally, prejudicial,* is it not reasonable to assume that the companion declarations of Judge Harris are likewise and equally gross exaggerations? Where does exaggeration stop once it has started? And where there is a disposition to exaggerate is any statement to be taken without a liberal sprinkling of salt?

The next characterization, divided from "jumped to his feet" by no more than a comma, is this

> "participated in a critical remonstrance of the Court, * * *"

Participate means: "to have or enjoy *a share in common with others*".

Only Appellant and Vincent Hallinan spoke to the Court. Thus, by the word *participated,* Judge Harris characterized what Vincent Hallinan said, as well as what Appellant said, as being a "critical remonstrance of the Court". Mr. Hallinan said:

> "If the Court please, I am going to object to these questions. * * * I want to enter a legal objection. Your Honor has seen the Manning Johnsons, the Crouches, the Rosses and everybody get on that stand and we asked whether they were insane or not. I object to your Honor's question. I object to that last question and assign that as misconduct, and I ask that the jury be instructed to ignore the implication of the question."

Every word of this statement was proper and courteous. Again Judge Harris exaggerated. Grossly exaggerated.

Appellant's first remark to the Court was "I never heard of such a question." That was an oblique rather than a direct contradiction of Judge Harris' statement "Mr. MacInnis invited it". Being an oblique contradiction, it not only accorded Judge Harris an opportunity to retreat from falsehood to truth *but to do so with face-saving grace.*

Instead of retreating Judge Harris forged ahead, not only repeating the falsehood but repeating it under circumstances which made it an attack on Appellant's integrity. Did Appellant then commence a "critical remonstrance of the Court?" He did not. He again gave a *soft* answer, that is an answer which still left the way open for Judge Harris to retreat gracefully from falsehood to truth. What Appellant said was: *"Your Honor* refused to do that and I asked a question." The phrase "Your Honor" connoted respect, not disrespect, and the remaining

portion of the statement was anything but a critical remonstrance. It was only *after* Judge Harris shifted away from the question of whether Appellant had or had not invited Judge Harris to ask the question that Appellant's statements began to be stiffened and pointed.

This sequence of events did not indicate a disposition on the part of Appellant to engage in a "critical remonstrance of the Court". It indicated a disposition to conciliate Judge Harris, that is, by suggestion, to induce Judge Harris, without loss of face, to undo the wrong and the harm which he had just done. Thus we see that, also as applied to appellant, the characterization of "critical remonstrances of the Court" is an exaggeration. A gross exaggeration.

And the same thing is true in the case of the phrase "in a belligerent manner". Belligerent means warlike, pugnacious. It connotes a disposition to pick *and press* a fight. The record shows that after Appellant said the *twenty-two words* which Judge Harris adjudged to be contemptuous Appellant remained silent for over two transcript pages at which point a recess was taken without comment by Appellant.

There was nothing warlike about this. There was no continuing burst of machine gun fire or banzai charge. What Judge Harris should have certified was that Appellant addressed the Court in an "indignant manner". There is a vast difference between an *indignant manner* and a *belligerent manner*. And we freely concede that some *slight* measure of Appellant's *righteous indignation* crept into his tone of voice and facial expression as well as into his words. After all, Appellant is a human being and has the normal human sensibilities and emotional reflexes.

Thus we see that the framework which Judge Harris has put around the remarks of Appellant is a false and misleading framework.

As we hereinbefore said "Appellee would not only have this Court consider the remarks of Appellant torn from their setting in the record but would have this Court consider those remarks in the 'false and misleading' framework * * * put around them by Judge Harris in the Certificate which forms a part of the judgment." We do not believe that this Court will resort, or will be in the least bit tempted to resort, to such legalistic legerdemain, to such legalistic "now you do not see what is in fact present and now you do see what in fact is not present", to sustain the judgment against Appellant.

We have dealt with the unsubstantiated general denials of Appellee. Let us now deal with the unsubstantiated castigating denunciations. On page 13 of its brief Appellee says:

> "* * * appellant proceeds to devote the bulk of his brief to a reiteration and amplification of his original contemptuous remarks, * * *"

And further on on page 13 Appellee says:

> "By a tortuous process of specious reasoning, including strained interpretations of events occurring after the commission of the contempt, hypercritical definitions of the meanings of some of the words and phrases used by the trial judge, inferences bases upon inferences, and claimed innuendo hidden in the Court's innocent language, appellant purports to construct a factual basis for his charge that the presiding judge was prejudiced against the defendants in the Bridges case and sought to secure their convictions (Br. 10-55)."

Is it not strange, if all of these things are so, that Appellee is unable to point to so much as a single instance in substantiation of any one of them?

Actually such denunications amount to little more than the calling of names for, except as to one instance, they give us nothing to answer except to say "We did not" in response to Appellee's "you did so." The one instance is the clause "hypercritical definitions of words and phrases used by the trial Judge." Definitions, whether hypercritical or not, can be identified and counted.

Between pages 10 and 55 of our opening brief (cited by Appellee) we attempted but *one* definition, that of the word "subjected" on page 15. The plural *s* to definition*s* is, thus, unadulterated wind used to blow up definition into definition*s*.

In that one definition we cited a standard dictionary giving all five of the clauses with which that word is defined. If this was a *"hypercritical* definition", then *all* dictionary definitions are *hypercritical.*

Appellee would have this Court hold, or infer, that Judge Harris meant something *other* than "subjected" when he used that word. But what? Appellee gives us no clue. And Appellee would have this Court infer that the jurors understood the meaning which Judge Harris intended. Again, what meaning? And Appellee would have this Court hold that appellant was being *hypercritical* in assuming that Judge Harris used the word "subjected" in its dictionary meaning. We are reminded of the conversation between Alice and Humpty Dumpty in *"Through the Looking Glass"* where Humpty Dumpty said:

> "When *I* use a word * * * it means just what I choose it to mean—neither more nor less. * * *

> The question is * * * which is to be master (the word or I) * * * When I make a word do a lot of work like that * * * I always pay it extra."

The castigating denunciations reach their apex on pages 29 and 30 of Appellee's Brief where it is said:

> "We believe the following language in *Sachs v. Government of the Canal Zone,* 176 F. (2d) 293, 300 (C.A. 5), cert. den. 338 U.S. 858, used in affirming a sentence for criminal libel, *is singularly applicable to appellant's entire brief** in the subject case:
>
> " 'In his attack upon the sentence, as distinguished from the conviction, the brief carries forward the same bitterness of attack, the same venom and anger, against the District Attorney. It does not put forward, as mitigating the offense, that appellant was acting in the heat of anger. He made no effort below, he makes none here, to apologize for his libelous charges or to explain them away on this ground. He made the attack in bitterness and resentment. He has continued it the same way. Complaining here of the sentence as unduly severe and asking its correction, he does not do so as an erring person convinced of his error and bringing forth fruits meant for repentance, but in anger and resentment. His brief states that he is a college graduate, a naval veteran, and that he has no previous record of crime. These facts show that he is not an underprivileged, illiterate and misled person, offending through ignorance, but a thoroughly informed one, who has knowingly offended and repents not. They make against him rather than for him when, with a vigorous determination to fight the matter out to the end in self-righteousness and as an accuser, he demands a reduction of his sentence instead of confessing his guilt and suing in repentance for a mitigation of its punishment.' "

*This emphasis ours.

What Appellee does not point out is that on the jury trial for criminal libel Sachs not only had the opportunity to put on evidence to prove that the libelous remarks were true and were published in good faith but that, after proof of the publication of those remarks by Sachs, the burden was upon Sachs to so prove in order to escape criminal responsibility, *and that Sachs offered no such evidence on such trial or on the subsequent presentence trial, when he again had the opportunity to offer evidence to prove such things.*

In this case, on the contrary, Appellant has had no trial, no opportunity to defend himself or explain his conduct, prior to or separate from this appeal, and all of his factual defense, except the Crouch and Michener incidents, is based upon that portion of the record in the *Bridges* case *which Judge Harris annexed to and made a part of the Certificate,* and the Crouch and Michener incidents are parts of the Bridges trial record, containing previous inconsistent rulings of Judge Harris, which are certified by the Clerk of the United States District Court.

These things being so, how could what the Court of Appeals said in the *Sachs* case, as quoted by Appellee, be "singularly applicable to Appellant's entire brief" in this case or *in any way or degree* applicable?

It seems to us to be unmistakably apparent that these castigating denunciations, together wth the references which Appellee makes to the two judgments for contempt imposed upon Vincent Hallinan during the same trial (BFA 4: neither one of which is final at this writing) and the reference to the two State Court contempt convictions of Vincent Hallinan (BFA 16, 17: one in 1925 and the other in 1932), were inserted

in Appellee's Brief *with the hope that they would find some lingering spark of prejudice or resentment among the members of this Court and would bellow it into a searing flame of rage and injudicious action. It seems to us self evident that these things constitute an appeal to passion and prejudice and not to reason and fair consideration.*

There are many other things in the brief for Appellee concerning which we would comment did space limitations permit. To commence a comment on any one of them, however, would run us over the twenty-page limitation. We trust that we will have time on oral argument to refute the ones which seem to need refutation.

Dated, San Francisco, California,
April 2, 1951.

Respectfully submitted,
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Attorney for Appellant.